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Preparatory Committee
Fourth session
Geneva, 19-30 April 1993
Agenda item 5

STATUS OF PREPARATION OF PUBLICATIONS, STUDIES AND DOCUMENTS FOR THE WORLD CONFERENCE

Contribution from the Catholic Human Rights Committee for the World Conference on Human Rights

The attention of the Preparatory Committee is drawn to the attached statement, entitled "Recommendation on the World Conference on Human Rights: On Development and Human Rights in Asia and the Pacific".

RECOMMENDATION ON THE WORLD CONFERENCE ON HUMAN RIGHTS

On Development and Human Rights in Asia and the Pacific

Asia and the Pacific is a world region that has experienced one of the most dramatic social, cultural and political changes in the 20th century. It is a region with many different peoples, cultures and religions, and, historically, with little regional communications until very recently. In addition, it is also the only World Region where no regional human rights treaties exist yet. It is also a region battered with severe violations of human rights from numerous wars, state-emergency measures, internal security controls, developmental authoritarianism, extra-judicial executions, involuntary disappearances, forced labour, massive migration of labour, forced prostitution, over-urbanization, to name a few.

Development, in its economic sense only, has been the goal of society for decades, giving little room for those minorities who disagreed. The value of human development was replaced with the merit of increased GNP, the degree of competition and efficiency of labour. As material growth has became the ideal, the exploitation of natural and human resources was justified under the objective of "national development". This objective in turn justified concentration of, or unequal distribution of wealth and thus various social injustice.

For the sake of a rapid development, shrewd nationalism was mobilized and then joined with remaining feudal ideologies, or discriminatory values linked with sex, age, race, family and other social status. It was a process of forming a social hierarchy that serves as a basis of a intensive labour-mobilizing, a pattern strikingly similar in many rapidly developing or developed countries.

Nationalistic authoritarian states in Asia and the Pacific employed 'accelerated development' plan by making a full use of the Cold War situation. Such a choice of path inevitably had to accelerate the disintegration of traditional social units as well as an uncontrolled urbanization. Targeting for possible source of capital, technology and finally the market, those countries did not have other choices but to accept the world division of production. That choice was accompanied with an importation of the fateful side-effects of the periphery economy such as pollution, environmental instability, profit-and-consumption-oriented culture, massive exploitation of young unskilled workers, and so forth.

Expansion of military was seen in many countries in the region, which was also incorporated into the economic structure - defense industries based on heavy and electronic industries. Tension from a possibility of war and military exercises were

often deliberately aroused when the developmental strategy was seriously challenged.

The accelerated development model, however, was not successful in that it could not narrow the gap between the developed and the developing countries. Rather, trades and division of production within this region have taken more and more a structured form with a few countries at the center and the others in the periphery permanently. A "successful" economy like the South Korea's has also come to a serious structural as well as cultural crisis, costing the whole society a prolonged period of recovery from the past wounds.

As if to manifest its worst effect, the continued unequal development in this region has also stimulated massive migration of labour from the poorest countries, plunging hundreds of thousands of young people into semi-slavery - not to mention further another symptom, sex-tourism and trafficking of children.

In most countries of the region, the formation of cheap labour through massive displacement of rural population and consequent deterioration of self-sustaining agricultural economy proceeded without consent of rural communities. Instead, land has often become a source of profitable investment due to developmental inflation phenomenon, deepening the gap between the poor and the rich.

Industrial workers are also subordinated by deprivation of their basic rights. Co-determination is considered as undesirable or dangerous idea in front of national development. Such an objective-oriented exploitation of workers naturally resulted in social contempt or bias against workers, their cultural alienation, massive industrial accidents and diseases.

Women and children among other minorities have become the most victimized social groups in nationalistic authoritarian situation, due to the close link between authoritarianism and discriminatory customs of the past. In addition, what many NICs in Asia like south Korea have shown is that military rule especially develops a distinctively biased attitude towards women and the weak, while fostering as well an inclination to violence instead of conversation. Hasty identification of 'enemy' or 'dangerous elements' to the development strategy and a culture of suspicion and hatred become an integral part of society. Though never clearly conveyed to other countries, the cost of recovery from such a total damage, as in south Korea, far exceeds the gains of its 'economic' miracle.

RECOMMENDATIONS

From these observations and in this important occasion in the history of the UN, I would like to recommend the following:

In spite of the numerous codification of human rights, the principle of universality, indivisibility, and inter-dependency of human rights and basic freedoms should be

strongly advocated and duly reconfirmed even in the Asian context. There is no doubt that we should still go further so as to overcome the present difficulties and ineffectiveness of the UN instruments.

As in the Declaration on the Right to Development, adopted by the UN General Assembly in its resolution 41/128 of 4 December 1986, we understand that a genuine development should be a social progress oriented towards human development. For this goal, today's world demands more and more a new paradigm of progress. Today's world also challenges us to reconsider upon our present model of civilization; i.e. mass production, mass consumption and mass dumping civilization, which has proven itself so destructive to mankind. Thus, we strongly uphold the concept of "sustainable development" in the sense of a new model of "human rights compatible development".

However, we find that the prevailing development model in Asia and the Pacific is still a national development with accelerated industrialization. We also identify that pursuing this model the nation-state itself has become the most powerful and over-developed actor as well as the cause of many human rights violations. On behalf of all the past victims and in the hope of no such repetition in the future, I claim that this development model and the role of the state should be checked and changed. For how to do it, I propose the principle of "Less State and More Civilian Participation", or "Co-Determination in All Sectors of Society"

A genuinely human development, as a new paradigm, requires full recognition and promotion of civil-political rights as well as economic-social-cultural rights.
In this respect:
(1) Development should also be a peace-oriented development, or a true progress of mankind in other words. Therefore, it concretely requires, especially in Asia, an immediate halt of military competition, especially among the powerful nations. The continued military build-up must be immediately replaced by genuine peace treaties (especially in the North-East Asia) guided by self-determination and non-intervention principles.
(2) In order to check ruthless development drives of nation-states, it is essential to set up a regional structure on human rights and development with full participation of non-governmental institutions in Asia and the Pacific. The governments in the region should agree at least to take the duty of proper support and cooperation. Thank you.

Finally, I propose from another perspective to challenge the commonly upheld belief that a new peaceful world order can be achieved through traditional ways. Given the inadequate function of the UN in many international disputes, including the prolonged tragedy in former Yugoslavia, widening gap between the North and the South and questionable decisions of areas of the UN's military intervention, let me now boldly ask the international community if traditional nation-states, too often preoccupied in their own national interests, can still be the effective and singularly justified main actors for peace building? Or have we come to a historical time to devise or complement a new actor into the working field of true peace? Again, critical of their

past plays, I would like to suggest "Less State and More Civilian Participation", or "Democratic Co-Determination in International Affairs" as the alternative guiding principle towards effective peace-building actions of international community. This is a reform of ideas, necessary if we really wish to bring forward a change. Reminded of the vast flow of profit in the arms trade and its integral role in the past national development and military regimes, I argue for the UN that now reforms are necessary, but before that should come the new principles of world order.

Looking forward the year of 1995 as the rebirth year of the UN, governments, NGOs and other international actors should join their efforts to seriously study on the new principles of a just world order. It can be done through a special working group in preparation of the General Assembly of the UN in 1995 by (1) reviewing comprehensively the faults of the past development process, (2) critically analyzing the relationship between accelerated development, role of the state, and human rights violations, (3) designing new and bold principles and a new model of development in compliance with the existing human rights instruments of the UN. Thank you.

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STATUS OF PREPARATION OF PUBLICATIONS, STUDIES AND DOCUMENTS FOR THE WORLD CONFERENCE

Contribution from the Non-governmental Organization Coordination Group

1. The attention of the Preparatory Committee is drawn to the attached contribution prepared by the Women's Caucus of the NGO Coordination Group for consideration by the governmental drafting group. Other suggestions of the NGO Coordination Group result from regional processes and satellite meetings, some from international caucuses and working groups that have worked together prior to and during the fourth session of the Preparatory Committee.

2. The material focuses on the following areas: women's human rights, indigenous peoples, racism, xenophobia and intolerance, rights of the child, development and democracy, education for human rights, universality and indivisibility and United Nations mechanisms for the promotion and protection of human rights, and is on file with the Secretariat of the World Conference.

THE WOMEN'S CAUCUS OF THE NGO COORDINATION GROUP FOR THE FOURTH PREPARATORY COMMITTEE FOR THE WORLD CONFERENCE ON HUMAN RIGHTS
WORKING PAPER TOWARD VIENNA

Women throughout the world have been engaged in organizing and preparing at the local, regional and international levels for the World Conference on Human Rights. This has included, *inter alia*:

- Women in over 120 countries circulating a Petition calling for the inclusion of women in all aspects of the proceedings and deliberations for the World Conference on Human Rights, and specifically for the recognition of gender-based violence as a human rights violation. More than 250,000 signatures have been gathered to date;

- Holding hearings on women's human rights issues and abuses in their own countries and regions;

- Organizing caucuses and meetings at the regional level and producing documents for their regional meetings;

- Reviewing and appraising the UN instruments, policies, mechanisms, programmes and actions in order to ascertain the progress in the promotion and protection of women's human rights.

In all regions it has been found that the United Nations and governments have by and large failed to promote and protect women's human rights, whether civil and political, or economic, social and cultural.

As the Committee on the Elimination of All Forms of Discrimination Against Women has stated with concern, "Women continue to be discriminated against all over the world as regards the recognition, enjoyment and exercise of their individual rights in public and in private and are subject to many different forms of violence," and "demand that the violations [of women's human rights] should be combatted with greater efficacy by the United Nations programme on the promotion and protection of human rights." (E/CN.6/1993/CRP.2)

Further, as the Commission on the Status of Women has expressed with concern, "The prohibition of discrimination on the basis of sex is a part of all human rights instruments. Underdevelopment, certain social and traditional practices and cultural patterns and all forms of violence and extremism create obstacles to the full realization by women of all of their rights. Human rights are universal and should apply to women and men equally. Violations of the human rights of women have not been fully dealt with by the overall mechanisms of human rights instruments, the means for recourse in the case of violations are not adequate and the process of achieving *de facto* equality has been slow." (E/CN.6/1993/l.5)

As women in a series of sub-regional meetings held in Africa concluded, "In spite of the ratification of international and regional human rights instruments, States still maintain laws and practices which discriminate against women. Selective traditions and customs are used by States to perpetuate discrimination against women and to condone it in the private sphere, contrary to obligations freely

assumed by States and to the expectations of the international community. This is particularly true in the field of access to land and other economic resources, legal status and capacity and rights within the family."

As the Latin American women in their Regional Preparatory Conference stated, "We denounce as violations against women's human rights any direct or indirect action or omission perpetrated by the State or by individuals in the public or private spheres, which are inflicted upon women during any stage of their lives, which have as their object or result any physical, sexual, psychological or emotional suffering, cause damage to their integrity or their human dignity, deny them the right to self-determination in any sphere of their lives, and any diminution of the sense of security of person, their self-esteem, their capabilities and their personality."

As some 240 participants from 110 non-governmental organizations concerned with issues of human rights and democratic development in the Asia-Pacific region stated, " The issue of women's rights has not been visible in the human rights discourse, in human rights institutions and practices. Patriarchy which operates through gender, class, caste and ethnicity, is integral to the problems facing women. Patriarchy is a form of slavery and must be eradicated. Women's rights must be addressed in both the public and private spheres of society, in particular in the family. To provide women with a life with dignity and self-determination, it is important that women have inalienable, equal economic rights (eg right to agricultural land, housing and other resources and property). It is imperative for governments and the United Nations to guarantee these rights. Crimes against women, including rape, sexual slavery and trafficking, and domestic violence, are rampant. Crimes against women are crimes against humanity, and the failure of governments to prosecute those responsible for such crimes implies complicity."

Therefore the Women's Caucus urges the United Nations and governments to take the following measures to ensure that women's human rights are systematically recognized in all areas of the United Nation's work, in each and every article of the Covenants and instruments of human rights, and within the self-determination of communities, minorities, indigenous peoples and other peoples, as well as in State institutions.

1. In order to promote the equal realization of women's civil, political, economic, social and cultural rights, we urge the appointment of a Special Rapporteur on the human rights of women through the Human Rights Commission. The Rapporteur should be authorized to receive and report on information from governments, non-governmental organizations and inter-governmental institutions, to respond effectively to allegations of violations against women, and to recommend measures to prevent continuing violations. The Rapporteur should also report to the Commission on the Status of Women to assist their policy-making function. While we welcome the decision of the Commission on Human Rights to consider the appointment of a special rapporteur on violence against women, the rapporteur's mandate should include systematic gender discrimination and be addressed to all aspects of women's human rights. Violence against women is closely linked to women's structural inequality and there is a critical need for reporting on gender discrimination in all , including those not party to the Convention on the Elimination of All Forms of Discrimination Against Women.

2. The implementation procedures under the Convention on the Elimination of All Forms of Discrimination Against Women (Women's Convention) should be strengthened:

* Call upon governments who have not yet ratified the Women's Convention to do so before 1995.

* Encourage governments to withdraw those reservations to the Women's Convention which are obstacles to its effective implementation and to object to reservations by other states parties that are incompatible with the object and purpose of the Convention.

* Call for expeditious review of the compatibility of reservations with the Women's Convention and remove those reservations determined to be incompatible with the principles and spirit of the Convention.

* Establish a working group to outline procedures for drafting an optional protocol establishing an individual complaints procedure under the Women's Convention, and support the adoption of such an optional protocol.

* Expand the resources of CEDAW, which is charged with overseeing the governmental implementation of the Convention, to enable it to carry out its mandate by authorizing extended meeting sessions, more support staff, and other forms of financial and structural support.

* Call upon states to effectively implement the Women's Convention through the elimination of discriminatory laws, policies, practices and customs and through the implementation of positive measures necessary to advance the equality of women.

3. **All UN treaty committees, thematic and country rapporteurs and working groups, independent experts and all bodies entrusted with protecting human rights should address violations of women's human rights by including gender-specific abuses, in the areas that fall within their mandate (through advisory services and training programs, reporting, monitoring and complaints procedures, etc.). Measures necessary to effectively carry out this charge include:**

* Support training for all UN personnel and independent experts to ensure that they will address the full range of human rights abuses specific to women and carry out their work without gender-bias.

* Enable the Program on Advisory Services in Human Rights to assist in the integration of a gender-perspective in all this work.

* Ensure periodic evaluations of the effectiveness of the UN monitoring, reporting and complaints procedures, as well as its advisory services and training programs, in addressing and devising more effective responses to violations of women's human rights.

* Call upon each body to prepare a report on the effectiveness of these initiatives for the 1995 World Conference on Women.

4. In reviewing progress made in the field of human rights since the adoption of the Universal Declaration of Human Rights, (Item 9 of the Provisional Agenda) and in considering challenges to the full realization of human rights of men and women (Item 11), governments should examine the issue of violence against women. We note with concern the failure of States, treaty-based bodies and human rights NGOs to effectively address such violence. Women all over the world are subjected to certain forms of violence, including battery in the home and rape, because they are women. This systematic and structural violence threatens and denies women their fundamental rights to life and to security of person and amounts to cruel and inhuman treatment. It is an extreme form of sex discrimination that denies women the dignity and integrity inherent in the human person and impairs their capacity to exercise and enjoy other civil and political, social and economic rights. Therefore we urge the following:

* The World Conference should recommend more effective UN implementation procedures to eliminate the violence against women that is endemic to all societies. Various forms of violence against women breach guarantees established in the Universal Declaration, the Convention on the Elimination of all forms of Discrimination Against Women, and other human rights instruments, including: the rights not to be arbitrarily deprived of life, liberty and security of person; the right not to be subject to torture or inhuman and degrading treatment; the right to just and favorable conditions of work; the right to equal protection of the law; and the right to be free from gender discrimination. All appropriate treaty bodies and human rights organizations should address gender-based violence as an aspect of these issues.

* The World Conference should recognize specifically that gender violence against women in both the private and public spheres is a violation of human rights and constitutes the gravest form of sexual discrimination. Governments have a responsibility to enforce or create new measures to prevent and respond to this gender specific violence in both these spheres, including affirmative measures to eliminate the conditions that breed this violence.

* We welcome the elaboration of the Draft Declaration on Violence Against Women, approved by the 1993 meeting of the Commission on the Status of Women, and urge the adoption of this Declaration by the General Assembly as a step toward more comprehensive and enforceable instruments.

5. Under Item 10 of the provisional agenda which calls for consideration of the relationship between Development, Democracy, and Human Rights, it should be recognized that neo-liberal policies and structural adjustment programmes negate socio-economic and cultural rights as well as political and democratic rights; the impact that these policies have on women, manifesting itself in the so-called "feminization of poverty", is one of the many ways of further extending the discrimination against, and subordination of, women. We also consider that these policies of structural adjustment should be examined in relation to discrimination against women in order that it is recognized that they are obstacles to women's enjoyment of the Right to Development.

We urge this Conference to recognize that human rights, true democracy and peace are incompatible with poverty and exploitation of which women are the greatest victims, and to affirm and propose initiatives and mechanisms to implement the indivisibility of political, civil, social,

economic and cultural rights and the right to development. Where the social and economic rights guaranteed by the Universal Declaration and the Covenant on Social, Economic and Cultural Rights are denied and the state abdicates responsibility for assuring livelihoods,– the food, shelter, work, health, welfare, education and well-being of the people,– women bear disproportionately the burden of sustaining life. Therefore, we specifically call upon the Conference to consider:

* Measures to bring about an end to the policies of structural adjustment which lead to violations of economic, social and cultural rights generally and have a particularly severe and discriminatory impact on women. In the interim, financing institutions should be urged to include criteria concerning women's ability to exercise their human rights in assessing development programs and to include "social safety nets" in structural adjustment programs.

* Review of the international financial institutions and arrangements with a view toward establishing a more just economic order and toward achieving sustainable development in all countries with the inclusion of women from all sectors in the development process.

* Procedures to implement socio-economic rights, such as an optional protocol allowing for individual complaints to the UN Covenant on Economic, Social and Cultural Rights (ICESCR) and to ensure the accountability of States to undertake affirmative measures to guarantee these rights.

6. In considering the full realization of women's human rights, attention must be paid to the area of human reproduction. Women have a fundamental right to accessible and adequate health care and safe motherhood. It is women's human right to information, education, and access to family planning and other reproductive health services, including STD and AIDS prevention. Motherhood must result from a free and informed decision by each woman. Reproductive rights as human rights not only prohibit coercion or abuse as a result of State laws, population policies and social customs, but also entitle women to affirmative efforts on the part of States and international organizations to foster the social, economic and cultural conditions that will ensure their inviolability, self-determination, health, and livelihoods consistent with respect for the diversity among women. Such conditions include access to a wide choice of safe contraceptives, back-up alternatives, abortion, and maternity services provided through participatory, consensual processes, as recognized in the Women's Convention.

These rights are particularly important for women during childhood and adolescence, when their right to life, health, and their development is threatened due to exploitation, discrimination, abuse, forced pregnancy and lack of educational opportunities.

7. Regarding the universality of human rights, all international instruments should be applied equally to women and governments should not use cultural and religious issues as a shield to evade responsibility for defending the fundamental human rights of women. As suggested in the resolution on the protection of women's human rights adopted by the African Regional Preparatory Conference in Tunis (A/Conf.157/AFRM/L.5), in considering the need to ensure the universality of human rights, governments should devise measures to counter all forms of religious or cultural intolerance denying women's human rights and liberties.

As the Asian NGO's stated in their Declaration for the Bangkok Regional Conference: "We can learn from different cultures in a pluralistic perspective and draw lessons from the humanity of these cultures to deepen respect for human rights.... Universal human rights standards are rooted in many cultures. We affirm the basis of universality of human rights which afford protection to all of humanity, including special groups such as women, children, minorities and indigenous peoples, workers, refugees and displaced persons, the disabled and the elderly. While advocating cultural pluralism, those cultural practices which derogate from universally accepted human rights, including women's rights, must not be tolerated. As human rights are of universal concern and are universal in value, the advocacy of human rights cannot be considered to be an encroachment upon national sovereignty."

8. Regarding Agenda Item 11 on Contemporary Trends in the challenges to the full realization of all human rights of women and men, the World Conference should endorse policy and operational guidelines to ensure full integration of human rights components into UN peace-keeping operations, emergency response mechanisms, election monitoring activities and humanitarian assistance initiatives. These guidelines should be aimed at integrating human rights considerations in the planning, implementation, and follow-up to all such activities. In particular, such guidelines must include effective procedures to prevent violations against women in situations of internal and international armed conflict or ethnic conflict, and effective humanitarian assistance and other measures for protection of women in such situations. In order to ensure that those responsible for abuses against women in such situations will be brought to justice, a permanent international criminal court, with universal jurisdiction, over war crimes and crimes against humanity, as well as gross and systematic violations of fundamental human rights, including gender specific abuses, such as rape and forced pregnancy. Such a court should have jurisdiction over crimes committed by United Nations personnel as well as by State officials and individuals.

9. With respect to refugee women, the Conference should give consideration to their gender-specific needs both in seeking refugee status as well as in the particular situations they face as refugees. We urge the World Conference to consider the following:

* Call for international and national measures recognizing feared or actual persecution based on gender as a basis for refugee status and political asylum. Such measures include modification of the definition of refugee under the 1951 Convention on the Status relating to Refugees and the 1967 Protocol.

* Governments should be urged to implement immediately the 1991 Guidelines on the Protection of Refugee Women issued by the United Nations High Commissioner for Refugees. In conformity with the 1991 Guidelines, gender-based persecution must encompass rape and domestic violence and other forms of privately inflicted gender-specific violence where it occurs with the "consent or acquiescence" of the state or "where a government cannot or will not protect women...[even though] the government need not itself have been the instigator of the abuse." The recently adopted (1993) Canadian "Guidelines on Women Refugee Claimants Fearing Gender-Related Persecution" provide a thoughtful guide on gender-based refugee status.

* Recognizing that women and children comprise the vast majority of the world's refugees, their right to citizenship, health, safety, work and education needs must be recognized and ensured. This includes protection from physical and sexual abuse in general and when imposed as a condition for receiving aid and basic necessities; access to medical and health care, including gynecology, means to prevent or interrupt pregnancies, pre-natal, childbirth and post-natal care; and access to education and employment opportunities and participation in governance and community development programs on an equal basis with men and boys.

10. We urge the United Nations to set goals and timetables to secure equal representation of women (including women from diverse backgrounds) on all UN treaty committees and among the special rapporteurs and working groups established by the UN Commission on Human Rights, the Sub-Commission on Prevention of Discrimination and Protection of Minorities and under the Program on Advisory Services in Human Rights. Other important measures that could be taken by the UN include:

* Strengthen the implementation of human rights and the inter-relationship and indivisibility of economic, social, cultural, civil and political rights by ensuring that gender-specific information drawn from a variety of women's experiences and gender analysis be included in consideration of all human rights, and of the means for advancing the equal realization of economic, social, cultural, civil and political rights.

* Recognize the accountability of UN delegates, personnel and other agents of the UN, for human rights violations, including gender-specific abuses, and develop procedures for implementing this accountability.

* Simplify the prerequisites of UN bodies for the exhaustion of national remedies so that the time, cost, and inconvenience of pursuing internal remedies no longer presents an obstacle to the effective enforcement of human rights.

11. We also urge that to ensure the effective contribution to the advancement of human rights by the specialized agencies of the UN (such as UNESCO and WHO), as well as other branches of the UN (such as UNDP), whose work bears upon the implementation of women's human rights:

* Consider measures to integrate gender-specific information and analysis in the work of specialized agencies, including training for relevant personnel and the participation of women affected in the development and evaluation of programs and initiatives.

* Develop effective mechanisms for dialogue and information exchange between the specialized bodies and the international and regional human rights bodies.

* Develop the mechanisms for overview and periodic evaluation of the effectiveness of these procedures.

* Prepare a report on the effectiveness of these initiatives for the 1995 World Conference on Women.

* Ensure the provision of adequate financial and human resources for these purposes.

12. The World Conference must recognize that human rights education is a human right and call upon the international human rights community to support national and grassroots NGOs working to create human rights awareness, which includes the human rights of women, and to help communities protect themselves against violations.

13. Develop procedures to expand access of NGOs with expertise in the field of the human rights of women to the World Conference and to all UN structures and activities relating to human rights including the work of the specialized agencies and other bodies.

14. Call upon regional human rights bodies to implement the foregoing recommendations in their respective contexts so as to further the enforcement of international human rights, including women's human rights.